

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

CRIM. NO. 99-295 (DRD)

Plaintiff,

vs.

MICHELLE RODRIGUEZ-MATOS (4)

Defendant

**RE-SENTENCING MEMORANDUM AND
REQUEST FOR ADDENDUM TO THE PRE SENTENCE REPORT
BY DEFENDANT, MICHELLE RODRÍGUEZ-MATOS (4)**

BEFORE THE HONORABLE COURT:

Comes now defendant MICHELLE RODRIGUEZ-MATOS (4) through the undersigned counsel and respectfully sets forth and prays:

1. The re-sentencing hearing in the instant case is pending to be scheduled as mandated by the Court of Appeals in **United States v. Vega-Molina, Rodriguez-Matos, 405 F. 3d. 511, 2005 U.S. App. Lexis 9041.**
2. In **Vega-Molina, supra**, the Court of Appeals affirmed in part, reversed in part, vacated in part the sentence previously imposed by this Court to defendant and the case was remanded to this Court for further proceedings consistent with the opinion of the Court of Appeals.
3. The mandate from the Court of Appeals as to defendant, **Rodriguez-Matos**, was that her sentence on Count Four must be refashioned to reflect the five-year

statutory maximum contained in **18 U.S.C. § 371**.

4. Ms. **Rodriguez-Matos** proposes that this Court can interpret it has authority to reconsider the sentence imposed Count One. [**U.S. v. Rowe, 268 F.3d 34; 2001 U.S. App. LEXIS 22466.**]
5. The Court of Appeals ruled in **Rowe, supra** in multi-count cases based on the same course of conduct, after convictions on one or more counts have been reversed and the sentence has been vacated, the district court on remand is authorized, within statutory and constitutional limits, to **re-evaluate and reconstruct the sentence**.

FACTS

1. The pre sentence report in this case was completed with addendums almost **fifteen months ago**, on 10/19/2005. [Docket 542].
2. Ms. Rodriguez-Matos has been under custody by the Bureau of Prisons from the date she was arrested in September, 1999 to the date of this motion, **seven years and four months**.
3. During her incarceration, she has successfully registered and completed **twenty-four courses** within the Bureau of Prisons in different areas, including the College Board Test, On Hand Floor Care Training, as evidenced by the transcripts and certificates of achievement and completion attached as exhibits.
4. Ms. Rodriguez-Matos has never been seriously reprimanded by BOP authorities.
5. She has been an exemplary inmate. At present she is the head orderly at MDC,

Guaynabo which includes responsibilities of assigning work load and supervision of other inmates.

6. This Court can recall that during the lengthy trial the testimonies and evidence presented by the prosecutor showed that Ms. Rodriguez-Matos was less culpable than the other codefendants charged in the indictment.

WHEREFORE, defendant, Michelle RODRÍGUEZ-MATOS prays that the Court consider the information and documents enclosed with this RE-SENTENCING MEMORANDUM and as a consequence order the Probation Office to update and submit an ADDENDUM TO THE PRE SENTENCE REPORT, timely disclosing it to counsel for review prior to the sentencing hearing.

Defendant further requests from the Court that it schedule her re-sentencing hearing once the addendum is filed.

Finally, Defendant also requests that this Court enter findings of fact and law in the sentence which it finally imposes on defendant.

Respectfully submitted. San Juan, Puerto Rico, January 9, 2007.

I certify: On this date, I electronically filed this document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all interested parties.

I further state that I have sent a copy of this document by other means to the **U.S. PROBATION OFFICE**, 150 Carlos Chardón Avenue, U.S. Federal Building Room #400, San Juan, Puerto Rico 00918; FAX 787-766-5945; and to Ms. **Michelle Rodríguez Matos**, **#19156-069**, Metropolitan Detention Center, P.O. Box 2147, San Juan, Puerto Rico 00922.

S/JOSE C. ROMO MATIENZO

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